

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**2:05 CR 37-2
(MAXWELL)**

JASON ALLEN HULL,

Defendant.

ORDER

By Order entered August 22, 2005, the Court referred any pre-trial motions to be filed on behalf of either the United States of America or the Defendant in the above-styled criminal action to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), and authorized Magistrate Judge Kaull to conduct any necessary hearings in resolving said motions or in preparation for submission of proposed findings of fact and recommendation for disposition.

On October 3, 2005, Defendant Hull's Motion To Suppress was filed in the above-styled criminal action (See Docket No. 39). In his Motion To Suppress, Defendant Jason Allen Hull moved the Court to suppress evidence seized by the West Virginia State Police during an April 28, 2005, search of his mobile home and camper and a number of vehicles located outside.

In support of his Motion To Suppress, the Defendant argued that the delay between the March 3, 2005, issuance of the misdemeanor arrest warrant and the April 28, 2005, execution of said misdemeanor arrest warrant was clearly unreasonable and that the execution of the misdemeanor arrest warrant was a pretext for an illegal search of his

home; that the misdemeanor arrest warrant was invalid in that it referred to a Jason Hall rather than Jason Hull; that there was no need for a protective sweep of his residence and that no exigent circumstances existed to justify a search without a warrant; and that the search of the black Pontiac Grand Am was illegal insofar as said vehicle was not listed on the search warrant and insofar as the Defendant did not own such a vehicle.

The docket in the above-styled criminal action reflects that a hearing on Defendant Hull's Motion To Suppress was conducted by United States Magistrate Judge John S. Kaull on October 11, 2005.

Thereafter, on October 19, 2005, Magistrate Judge Kaull entered a Report And Recommendation/Opinion wherein he recommended that the Court deny Defendant Hull's Motion To Suppress.

Magistrate Judge Kaull's Report And Recommendation/Opinion advised the parties, pursuant to 28 U.S.C. § 636(b)(1), that any objections to said Report And Recommendation/Opinion which were not filed, in writing, with the Clerk of Court within ten (10) days after being served with a copy of said Report And Recommendation/Opinion would be waived.

The docket in the above-styled criminal action reflects that Defendant's Objections To Report And Recommendation were filed with the Court on October 28, 2005 (See Docket No. 59). In his Objections, Defendant Hull objects to Magistrate Judge Kaull's rendition of Trooper Scarbro's testimony regarding the reasons why it took so long to execute the misdemeanor arrest warrant; objects to Magistrate Judge Kaull's determination that the misdemeanor arrest warrant was valid despite the fact that both the misdemeanor arrest warrant and the criminal complaint named Jason Hall instead of Jason Hull; objects to Magistrate Judge Kaull's determination that the delay in executing the misdemeanor arrest warrant was reasonable and not a pretext for an illegal search; and objects to

Magistrate Judge Kaull's determination that the scope of the search of the Defendant's home was reasonable.

The Court has reviewed the record before it and has conducted a *de novo* review of all matters before Magistrate Judge John S. Kaull in considering Defendant Hull's Motion To Suppress. It appears to the Court that Magistrate Judge Kaull's October 19, 2005, Report And Recommendation/Opinion accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled criminal action. Defendant Hull's Objections have not raised any issues which were not thoroughly and accurately considered by Magistrate Judge Kaull in his Report And Recommendation/Opinion. Accordingly, it is

ORDERED that Magistrate Judge Kaull's Report And Recommendation/Opinion (Docket No. 58) be, and is hereby, **ACCEPTED** in whole. It is further

ORDERED that Defendant Hull's Motion To Suppress (Docket No. 39) be, and the same hereby is, **DENIED** in accordance with the recommendation of United States Magistrate Judge John S. Kaull.

The Clerk of Court is directed to transmit copies of this Order to counsel of record in the above-styled criminal action.

ENTER: November 9 , 2005

/S/ Robert E. Maxwell
United States District Judge